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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,899	11/28/2001	Robert J. Macdonald	34200	1559
116	7590	01/12/2005	EXAMINER	
PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108			CONLEY, FREDRICK C	
			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/995,899	MACDONALD, ROBERT J.
	<b>Examiner</b>	<b>Art Unit</b>
	FREDRICK C CONLEY	3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 12 October 2004.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1,2,5-10 and 12-15 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 6-8,10 and 12-15 is/are allowed.

6)  Claim(s) 1,2,5 and 9 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/26/04.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 4,723,331 Weiss.

In reference to claim 1, Weiss discloses a sheet for dressing a mattress comprising an oblong panel 34 of knit material having a central longitudinal panel, as shown by the dotted line 43, and side panels, as illustrated by dotted lines (45,47), flanking said central area, said side panels being folded under said central longitudinal panel and sewn thereto by curved corner seams (46,48) of the length equal to or less than the width of said side panels (col. 3 lines 62-65).

Regarding claim 2, further characterized in that said seams are symmetrical about a mid-line of said central area that from end to end thereof (fig. 5).

Regarding claim 5, wherein said oblong panel of knit fabric has side edges that are cut and not finished, and at the end of said sheet, said seams are sewn directly over said cut unfinished edges.

Claims 1-2, 5, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 2,942,280 to May.

In reference to claim 1, May discloses a sheet for dressing a mattress comprising an oblong panel 11 of knit material having a central longitudinal panel, and side panels (12) flanking said central longitudinal panel, said side panels being folded under said central longitudinal panel and sewn thereto by curved seams 28 of length equal to or less than the width of said side panels (fig. 3 & 5).

Regarding claim 2, further characterized in that said seams are symmetrical about a mid-line of said central area that runs from end to end thereof (fig. 1-2).

Regarding claim 5, May discloses finishing the lower side edges by enclosing elastic in a tape of soft material to provide a soft and attractive edge (col. 4 lines 14-21). Therefore, it is inherent that the side edges are not finished until the elastic seam is sewn directly over the unfinished edge.

Regarding claim 9, including a loop or length of material 26 extending from the seam at one end of the sheet.

***Allowable Subject Matter***

Claims 6-8, 10, and 12-15 are allowed.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FREDRICK C CONLEY whose telephone number is 703-308-7468. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, HEATHER SHACKELFORD can be reached on 703-308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FC



HEATHER SHACKELFORD  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600